

SENATE BILL 3539

By Ketron

AN ACT to amend Tennessee Code Annotated, Title 53, Chapter 10 and Title 63, Chapter 10, relative to enacting the "Official Tennessee Prescription Program Act."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Official Tennessee Prescription Program Act".

SECTION 2. The purpose of this legislation is to improve the security of prescribing and dispensing of controlled substances and thus reduce the diversion of prescription drugs through prescription fraud.

SECTION 3. This act shall apply to all controlled substance prescribing providers of health care in this state and all controlled substance dispensing pharmacists conducting business in the state.

SECTION 4. As used in this act, unless the context otherwise requires:

(1) "Board" means the board of pharmacy;

(2) "Dispenser" means a person authorized in this state to dispense a controlled substance to the ultimate user but does not include:

(A) A licensed hospital pharmacy that dispenses such substances for the purposes of inpatient hospital care or the dispensing of prescriptions for controlled substances at the time of discharge from such a facility; or

(B) A licensed nurse or medication aide who administers such a substance at the direction of a licensed physician;

(3) "Prescriber" means a licensed health care professional with prescription issuing authority;

(4) "Official state prescription program" means a program established under Section 5 of this act;

(5) "Official state prescription" means a prescription that is provided by the state under the official prescription program.

SECTION 5.

(a) The board of pharmacy shall establish and maintain, an official Tennessee prescription program:

(1) The board shall develop a single simplified standard format for all prescriptions issued under this program. The format shall then be used to support variations of needed prescriptions such as pads, laser sheets and thermal rolls;

(2) Every prescription written in this state shall be written on an official state prescription. This section shall not apply to prescriptions or medical orders generated within a licensed medical facility that result in the internal dispensing of prescription drugs to any patient receiving treatment in that facility where the patient is never in possession of the prescription.

(3) A pharmacist shall not fill a written prescription unless issued upon an official state prescription. Nothing in this section shall be construed to impact regulations regarding oral, electronic, or out-of-state prescription practices.

(4) The board is granted the authority to promulgate rules and regulations necessary to implement and maintain an official state prescription program as outlined in this section. The board may contract with a vendor to establish and maintain the official state prescription program.

(b) The official prescription forms shall be provided by the board to registered prescribers without charge. Each and every prescription shall be issued to a specific

practitioner and shall be marked with a unique control number and shall only be used by that practitioner and is not transferable.

(1) Only health care providers licensed to write prescriptions shall be authorized to request official prescriptions forms.

(2) The board shall develop tamper resistant specifications that shall be incorporated into the official prescription forms. The specifications shall at a minimum:

(A) Meet or exceed all other state and federal laws, rules and regulations related to prescriptions;

(B) Protect against counterfeiting;

(C) Protect against alterations; and

(D) Facilitate automated pharmacy point of sale claims adjudication or validation processes using NCPDP data standards through the use of a unique bar-coded control number.

(3) The board shall define minimal security standards for all processes from order capture through production and inclusive of the distribution or delivery of the official prescription forms. The board shall establish specific security requirements for:

(A) Secure order capture, which means a secure web based order capture system that limits ordering to authorized or licensed prescribers;

(B) Secure prescription forms, which means a variety of overt and covert security features designed to prevent known threats to prescriptions forms;

(C) Secure production, which means the prescription printing facilities shall have at least a two (2) year history of SAS70 audits and maintain annual SAS70 type 2 audit; and

(D) Secure distribution, which means a secure delivery or distribution process that requires the signature for each delivery of official prescription forms.

(c) Payments shall not be made for amounts expended for state funded medical assistance for covered outpatient drugs for which the prescription was executed in written and non-electronic form, unless:

(1) The prescription was executed on an official state prescription;

(2) The official prescription control number is provided as part of the claims data.

SECTION 6. Practitioners shall immediately notify the board of pharmacy on forms supplied by the department of health of the loss, theft or unauthorized use of any official state prescription forms issued to them as well as the failure to receive official state prescription forms within a reasonable time after ordering them from the secretary.

SECTION 7. Tennessee Code Annotated, Title 53, Chapter 10, is amended by adding Sections 1 through 6 of this act as a new Part.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.